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14. ABSTRACT In the foreseeable future, the United States (US) will likely find itself engaged in hybrid warfare. Such conflicts will involve state and non-state adversaries utilizing a fusion of conventional and unconventional weapons, tactics, and behaviors. Moreover, political risk aversion, coupled with the perceived "sanitary" use of technologically advanced weapons systems, makes US airpower an ever enticing means to achieve the nation's political objectives. Applying airpower to hybrid war raises unique ethical considerations for the Joint Force Commander (JFC). In this essay, the author introduces the nuances of hybrid war, the technologically superior capabilities of US airpower, and the ethical concerns distinct to each. The research analyzes the JFC's ethical responsibilities in applying airpower to hybrid war, as well as thoughts regarding proportionality and the military advantage of tactical air strikes as they link to theater and national strategic goals. The author concludes that JFCs must ethically bridge airpower's effects with hybrid war's strategic objectives by tailoring rules of engagement to focus the joint targeting process. Finally, the research calls for the development of hybrid war doctrine and the advancement of joint targeting guidance, and also offers the JFC pertinent recommendations in the realm of operational art.					
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**AIRPOWER IN HYBRID WAR:
ETHICAL IMPLICATIONS FOR THE JOINT FORCE COMMANDER**

by

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Signature: original //signed//

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Paper Abstract

Airpower in Hybrid War: Ethical Implications for the Joint Force Commander

In the foreseeable future, the United States (US) will likely find itself engaged in hybrid warfare. Such conflicts will involve state and non-state adversaries utilizing a fusion of conventional and unconventional weapons, tactics, and behaviors. Moreover, political risk aversion, coupled with the perceived “sanitary” use of technologically advanced weapons systems, makes US airpower an ever enticing means to achieve the nation’s political objectives. Applying airpower to hybrid war raises unique ethical considerations for the Joint Force Commander (JFC). In this essay, the author introduces the nuances of hybrid war, the technologically superior capabilities of US airpower, and the ethical concerns distinct to each. The research analyzes the JFC’s ethical responsibilities in applying airpower to hybrid war, as well as thoughts regarding proportionality and the military advantage of tactical air strikes as they link to theater and national strategic goals. The author concludes that JFCs must ethically bridge airpower’s effects with hybrid war’s strategic objectives by tailoring rules of engagement to focus the joint targeting process. Finally, the research calls for the development of hybrid war doctrine and the advancement of joint targeting guidance, and also offers the JFC pertinent recommendations in the realm of operational art.

INTRODUCTION

While the military buildup of global powers remains the most *lethal* threat to the United States (US), hybrid war with state and non-state actors is emerging as the more *likely* possibility in the foreseeable future.¹ As well, political risk aversion, coupled with the perceived “sanitary” use of technologically advanced weapons systems and munitions, makes US airpower an ever enticing means to achieve the nation’s political objectives.

However, applying airpower in hybrid war raises unique ethical considerations for the Joint Force Commander (JFC). These challenges arise for three distinct reasons. First, hybrid conflicts will require a measured and discriminate application of force. What is more, the blended operational environment calls for a positive commitment to preserving innocent lives—a consideration central to achieving strategic aims. Second, the technological superiority of US airpower provides the JFC with a considerably asymmetric targeting tool. Few potential adversaries will match US airpower in the foreseeable future. In a minimally contested air domain, airpower can be employed with very low risk to US airmen. The risks to civilians on the ground, nevertheless, still exist. Lastly, current joint doctrine fails to address these ethical considerations adequately. Customary laws of war generally lag both the changing character of conflict and the technology of warfare.² Furthermore, current US joint targeting doctrine inadequately addresses the above concerns in relation to strategic and operational objectives. Doctrine on hybrid war is altogether nonexistent. Therefore, in the absence of legal guidance and doctrine, the JFC must ethically bridge airpower’s effects with hybrid war’s strategic objectives by tailoring rules of engagement (ROEs) to focus the joint targeting process.

As the author uses the terms *law* and *ethics* throughout this essay, a brief review of the definitions and the differences of these terms is helpful. The general definition of law as it pertains to war is “the system of rules that a particular community recognizes as regulating the actions of its members and may enforce by the imposition of penalties.”³ To guide planning and operations, the US looks to Operational Law and the Law of Armed Conflict (LOAC), which encompasses the international laws of war, humanitarian law and various other regulations.⁴ Ethics is the “moral principals that govern a group’s behavior.”⁵ Though ethics typically informs the law, the law cannot incorporate all moral principals and there are typically no associated punishments for ethical violations.

THE CHARACTER OF HYBRID WAR

While the character of future war is uncertain, the current global security environment foreshadows conflict with conventional and unconventional forces utilizing a fusion of weapons, tactics, and behaviors.⁶ Military scholars increasingly refer to this as “hybrid war.” Lt Col Frank Hoffman, USMC (Ret) defines it as “any adversary that simultaneously and adaptively employs a fused mix of conventional weapons, irregular tactics, terrorism, and criminal behavior in the battle space to obtain their political objective.”⁷ Such conflicts are becoming commonplace around the globe. Uprisings in Israel, Libya, Egypt, and Syria stand as good examples of both state and non-state combatants applying various means and modes of warfare to achieve their political aims.⁸ US direct and indirect involvement in each of these conflicts is a testament to the likelihood of US involvement in hybrid clashes in the foreseeable future.

In hybrid war, JFCs cannot always depend on current legal guidelines during the targeting process. Adversarial forces are not always lawful combatants in accordance with

the customary laws of war. JFCs may find themselves supporting rebel fighters against lawful enemy combatants. On the other hand, they could confront unlawful combatants while supporting allied governments against insurgencies. Forces often embed themselves within the civilian population, exploit dual-use objects, and examine a myriad of means to achieve their objective, including mass killing of civilians. In such instances, US doctrine lacks legal norms by which to guide action. While the Geneva Conventions provide a baseline, in many ways, international human rights law is the only place to turn.⁹

Despite the small body of applicable law, adherence to ethics and human rights will assuredly be a critical requirement in these future conflicts and a vulnerability that adversaries will exploit; thus adding another challenge to the joint targeting process. JFCs cannot solely concern themselves with the direct tactical effects. They must also consider the long term indirect effects and the targeting link to strategic goals. A recent update to Joint Publication 3-24, *Counterinsurgency* clearly presents this planning restriction. It states “insurgents will inevitably exploit (collateral damage and civilian casualties) especially through propaganda, using international media coverage when possible.”¹⁰ Examples in Iraq, Afghanistan, Pakistan and Yemen demonstrate the weight of this statement. Unintended effects go a long way to undermine US strategic objectives, lending strong support for the need to heed ethical considerations at the outset of a conflict.

THE ASYMMETRY OF US AIRPOWER

The technological advancements in airpower over the last two decades are awe-inspiring. The development of stealth fighter and bomber aircraft, precision guided munitions and satellite guidance, all backed by unrivaled electronic and computer technology present a remarkable military tool. The US Air Force can deliver highly precise and effective results

with little to no collateral damage. What is more, the US can apply airpower with low risk to US personnel.

These extensive technological capabilities, as explained by airpower scholar Mark Conversino, “constitute a fundamental asymmetry in airpower that alters many basic assumptions of earlier airpower theory and poses challenges to many of the assumptions of traditional just war thinking.”¹¹ He expounds on this idea, pointing out the incongruence of increased precision.¹² The sheer destruction delivered at the hands of airpower during World War II sprung questions of the *jus in bello* (ethics and laws of waging war) aspect of just war theory.¹³ In light of the issue, the spirit of US acquisition is one that historically and presently puts discrimination and proportionality at the forefront.

The irony is that technological developments achieve *jus in bello* requirements but now create *jus ad bellum* (ethics and laws regarding a nation’s right to go to war) questions.¹⁴ Colonel Shane Riza (USAF) expounds on this notion in his book *Killing without Heart*. He writes: “the (US) drive for impunity in warfare has granted military officers, the ability to provide to the legitimate authority ‘unusually useable’ options for military force.”¹⁵

The lure of contemporary airpower can thus be a potential curse. Its unusual usability, easily translated to mean no “boots on the ground,” provides the possibility for what Eliot Cohen calls “gratification without commitment.”¹⁶ It also opens the door to a military commitment with shortsighted political aims. Here, the JFC becomes the ethical shock absorber. He is left to face *jus in bello* considerations in a conflict that may or may not adhere to the *jus ad bellum* principle of military force as a last resort.¹⁷ Regardless, the JFC must convert military objectives into a political win.

HIERARCHICAL ETHICS IN APPLYING AIRPOWER TO HYBRID WAR

A principle ethical consideration while waging war is the JFC's responsibility to his superiors and his subordinates. Michael Walzer, in his book *Arguing About War*, identifies three directions of responsibility to which commanders are responsible.¹⁸ The JFC is accountable “*upward*”—to his higher commanders, the commander-in-chief, civilian leadership, and ultimately to the American people.¹⁹ He must answer for poor performance and preventable losses and he is accountable up the chain to those who will suffer from his letdowns. The JFC is also accountable down the chain. That is, he is responsible “*downward*”—to the troops under his command.²⁰ He has a responsibility to his service members not to proceed in winless battles or to needlessly put their lives at risk. Soldiers, Sailors, Airmen and Marines are tools for JFCs to utilize as means to achieve military objectives and not as expendables for victory at all cost. To be sure, these service members expect the JFC to uphold his obligation and, rightfully, place blame when he does not.

Walzer also introduces a third direction of accountability, one he calls “*outward*” responsibility to non-combatants.²¹ Applying the concept, customary international law and the Law of Armed Conflict (LOAC) guides this outward responsibility to a degree. JP 3-60, *Joint Targeting* provides general restrictions on targets with an emphasis on the protection of the civilian population and the minimization of civilian casualties. However, the law does not tie the JFC's hands, nor does it unequivocally protect civilians from becoming casualties. The JP states “attacks are not prohibited against military targets even if they might cause incidental injury or damage to civilian objects. In spite of precautions, such incidental casualties are inevitable during armed conflict.”²²

The law, therefore, guides the JFC in the targeting process, protecting civilians to a practical extent, but does not prohibit attacks even when collateral civilian death is inevitable. Moreover, in prosecuting military targets, even despite incidental casualties, the JFC is rightfully pursuing the strategic objective and fulfilling his “upward” responsibility. Put simply, he is pursuing victory. In applying precision strikes from the air, he is supporting the objective with the least risk to his own service members; thus meeting his “downward” responsibility as well. All in all, he fulfills his ethical covenant with his troops and superiors and does so within the bounds of the law.

Yet, does the character of hybrid war factored with US airpower’s enormous capability change the moral equation? In an uncontested air domain, F-22 pilots can rain down 285-pound precision strike Small Diameter Bombs (SDB) on a military target with virtually no risk to themselves.²³ A Remotely Piloted Aircraft (RPA) pilot sitting on the opposite side of the globe can launch a hellfire missile onto a moving target. Both provide the JFC with the capacity to achieve tactical, operational, and strategic effects by placing pilots in relatively low risk or, in the case of RPAs, no physical risk at all. Meanwhile, the local civilian population remains at risk. The technological capabilities of airpower essentially remove the JFCs “downward” ethical responsibility from existence.

Herein lies a perplexing ethical consideration. How does the absent downward responsibility to his troops change the JFC’s outward responsibility to the civilians on the ground? Indeed, left unchecked the circumstances present the possibility to target with impunity. On the other hand, it is unreasonable to suggest this disproportionate capability somehow morally restricts the JFC from using airpower. But, there are conditions that morally press the JFC to seek alternative targeting means—means that may put friendly

forces at risk. Walzer supports the validity of this statement. He states, “When it is our action that puts innocent people at risk, even if the action is justified, we are bound to do what we can to reduce those risks, even if this involves risks to our own soldiers.”²⁴ Riza takes the principle a step further, describing the quandary as a “balancing act.”²⁵ He even goes as far as to suggest it seems to be the US way of war to “drop a two-thousand-pound bomb from thirty thousand feet... when a well-trained Marine with a rifle would have sufficed.”²⁶

The balancing act seems counterintuitive to the effects-based principle of targeting. JP 3-60, *Joint Targeting* describes the principle as the art of creating “desired effects with the least risk and least expenditure of time and resources.”²⁷ Dropping a two-thousand-pound bomb from a B-2 likely adheres to this principle in many cases. Certainly when time is of the essence and the B-2 is the only force available; this is likely the JFC’s best option. Conversely, in hybrid war the immediacy of targeting can be the exception rather than the rule. When time is not of the essence and alternate forces are available, desired effects are not always those created with the least risk. Or, put another way, maybe “least risk” refers to civilians on the opposing side as well.

For example, consider a building housing three adversaries designated as a high value target. However, in this scenario ten children also live in the building. One targeting option is to task an F-16 to drop a SDB on the target. This option obviously risks the lives of the ten children as well as the pilot’s. Still another option is to send a team of ten Special Forces to raid the building and neutralize the adversaries. In choosing this alternative, the JFC risks more friendly combatant lives, but likely reduces the risk to the children. Which choice is the JFC to make?

The answer certainly depends on a myriad of conditions. But the point is that the JFC needs to consider the art of pursuing the “least risk” in context of risk to whom. Least risk is not immediately tasking the most technologically advanced weapon because the JFC’s risk aversion applies only to his own service members. Moreover, there are no concrete laws of war unequivocally to guide the decision in this scenario. There are no laws prohibiting the use of technologically advanced weapons. As long as joint planners adhere to the proportionality requirement, dropping the smart bomb is perfectly legal.

DOUBLE INTENT—A CONSIDERATION IN PROPORTIONALITY

The ethical debate of the bombing predates World War II. One principle often debated, the principle of *double effect*, was first used to decry the morality of city bombing. The tenet of double effect, as presented in the essay “The Morality of Obliteration Bombing,” by Jesuit priest John C. Ford in 1944, requires “the evil effect is not willed either in itself or as a means to the other result.”²⁸ Walzer qualifies this to mean that an actor must have good intentions and not intend any evil collateral damage or use evil methods to achieve good ends.²⁹ Applying the concept to the previous scenario, if the JFC’s intent is to kill the adversaries (the good) and not the children (the evil) he meets this tenet of double effect. Nevertheless, Walzer proposes the ethical responsibility does not end here. He puts forth that the authority must also meet the principal of *double intent*.³⁰ Double intent requires not only good intent, but also the responsibility to actively reduce the evil consequences when possible. Simply put, merely *not* intending to kill civilians is insufficient. Double intent requires a “positive commitment” to save civilian lives, even if it means risking soldiers’ lives.³¹

Nevertheless, how does the JFC positively commit to saving lives during the joint targeting process? This is a complex question because, again, customary law and the LOAC provide loose guidance. Steven Lee, in his essay “Double Effect, Double Intention, and Asymmetric Warfare,” presents useful discussion on the matter.³² From his perspective, in war, every military decision has a military optimal alternative- that most likely to achieve the objective at the least cost militarily. Every decision also has a military suboptimal alternative. He breaks suboptimal alternatives down further to “those that pose a greater civilian risk than is posed by the militarily optimal alternative and those that pose a lesser civilian risk.”³³ From this analysis, a number of military suboptimal alternatives likely come to light. Lee next presents three factors by which to weigh these alternatives. These factors are:

- a. The extent of the civilian risk the alternative poses;
- b. The extent of the combatant risk the alternative poses;
- c. The likelihood that the alternative would achieve the military objective.³⁴

The analysis is useful as it gives JFCs perspective for positively committing to reduce civilian risk. Ultimately, if the suboptimal alternative reduces civilian lives and the likelihood it would achieve the objective is reasonably likely, it should be considered even at the expense of increasing friendly combatant risk.

The point overall speaks to the JFC’s outward responsibility for due care of civilians. Moreover, it speaks to consideration that technological advances in airpower do not, by design, provide joint planners the appropriate military alternative in all cases. Precision munitions are more discriminate yes, but as Lee points out, “the weapons are discriminate only when they are used in a discriminating way; otherwise they simply kill civilians more accurately than the old munitions did.”³⁵

ADDRESSING THE CRITICS

Critics of the examination presented thus far likely discount its utility for a few reasons. First, war and military conflict in general, no matter how one labels it, is ugly. Second, when fighting a war, adherence to present law is all the US can require of its military. At the end of the day, policy makers want their generals to win the war within the bounds of the LOAC. Third, a strict adherence to ethical principles places upon the JFC unreasonable negative objectives that can make military victory impossible.³⁶ The lessons of the Vietnam War carry the weight of this point, as policy makers restricted targeting to such a degree that a decisive military “win” was nearly impossible. These are all valid arguments requiring brief attention.

Since the earliest recordings of war, pundits questioned ethical restraint in armed conflict. In “The Melian Dialogues,” Thucydides recounts Athenian demands of the Melians to give up their neutrality and surrender their city or face destruction. When the “fairness” of this proposal comes into question, the Athenians famously respond “right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must.”³⁷ War, as Machiavelli wrote in *The Prince*, is “just” when it is “necessary.”³⁸ Confederate General William Sherman, in a letter to the mayor of Atlanta in 1864, stated, “war is cruelty, and you cannot refine it.”³⁹

It is tough to deny the efficacy of these statements. History surely demonstrates the horrific nature of war and the death and destruction it produces. Therefore, it begs the question as to why the US even cares about right and wrong in war, especially if the other side does not. What do you tell a woman who lost her husband, son, or daughter in the terrorist attacks on September 11, 2001? She likely finds little solace in the US attempt to

conduct a wholly ethical campaign against al Qaida and its affiliates over the last decade plus.⁴⁰

P.W. Singer provides an insightful response in “The Ethics of Killer Applications.” He argues the US must adhere to ethics because if it does not, it is equivalent to a barbarian state. Moreover, operating outside of law and morality, history shows, is not necessarily advantageous. Singer writes, “In the history of war, the side that has fought with a sense of ethics, respected the laws, and fought as ‘professionals,’ has tended to win more often than those that do not.”⁴¹

Another criticism claims the established laws of war are enough. Responding to a challenge on the mere use of RPAs, Harold Hongju Koh, legal adviser to the US State Department, defends it based on legality. He states, “the rules that govern targeting do not turn on the type of weapons system used, and there is no prohibition under the laws of war on the use of technologically advanced weapons systems in armed conflict.”⁴²

Koh asserts a valid point, but as previously stated, the law often lags technology. International customary law did not automatically ban the use of nuclear, biological, and chemical weapons. It was only after the international community became aware of the horrors of their use that nations sought their limitation. Or, suggested another way, the call for their limitation happened only after these weapons proliferated around the world (in the case of nuclear weapons). Accordingly, it is reasonable to assume that as more and more states acquire RPAs, law surrounding their use will emerge.

Still another counterargument suggests restraint based on hypersensitivity to civilian casualties makes achieving military victory impossible. Clodfelter, in *The Limits of Air Power*, introduces the term *negative objectives*.⁴³ As opposed to positive objectives (those

met only through applying force), negative objectives are met only via the *limitation* of force.⁴⁴ The more limited war, the more policy makers will likely attach innumerable negative goals. Or, said another way, the greater the concerns for collateral damage, the more negative aims are tied to the military strategy. The problem with this statement is, the greater the negative objectives, the less airpower's ability to successfully accomplish positive goals. Accordingly, a stricter adherence to ethics, beyond what is only legally required, can overshadow the JFC's capability to achieve a military victory.

Assuredly, insurmountable negative objectives tie the JFC's hands. However, in hybrid war, negative objectives will always exist. Operational art (linking tactical engagements to strategic objectives) requires the JFC to achieve positive aims with the deliberate concern of not violating negative objectives; so achieving one and disregarding the other leads to protraction and failure to meet political objective.⁴⁵ As such, military strategy must address both. More specifically, the military advantage of striking a target and the means utilized must adequately center on both negative and positive aims.

MILITARY ADVANTAGE

Joint targeting doctrine does an adequate job of getting to the spirit of positive and negative goals. JP 3-60, *Joint Targeting* lists *military advantage* under the general legal considerations for targeting.⁴⁶ The concept "refers to the advantage anticipated from an attack when considered as a whole... (It) is not restricted to tactical gains, but is linked to the full context of war strategy."⁴⁷ This leads to a broader level of ethical consideration when applying airpower to hybrid war. From purely strategic lenses, how does the tactical application of airpower achieve strategic results?

As discussed, the character of hybrid war makes bridging tactics and strategy extremely difficult. The character of hybrid war will likely contain an enemy with an intangible center of gravity. Furthermore, an adversary's strategy in such a conflict is difficult to attack. How does a force attack an ideology? How does it attack an enemy strategy aimed to radicalize the populace and ignite a holy war? The lure of airpower suggests that tailored and precise strikes against key opposition leaders and the consistent tracking and killing of unlawful combatants is the way to disincentive the spread of the ideology. The US is currently testing this approach. Throughout places like Afghanistan, Yemen and the Horn of Africa the US is using RPAs to conduct "signature strikes" on al Qaeda and associated movements (AQAM).

The experiment is showing evidence that sporadic application of airpower is ineffective. Martin Cook illustrates this point in "Ethical Dimensions of 'Drone' Warfare."⁴⁸ Cook addresses the efficacy of RPA use in the US approach to defeat AQAM at the tactical, operational, and strategic levels. In specifically addressing signature strikes, he asserts RPAs are likely the best ethical and legal means of delivery at the tactical level.⁴⁹ Concerning *jus in bello*, they are more discriminate and proportionate than any other delivery methods.⁵⁰ Conversely, looking at the issue from an operational and strategic context, Cook questions the effectiveness of RPA attacks in furthering US objectives.⁵¹ The main goal of RPA strikes, he points out, is to prevent attacks on US soil and US assets, and to eradicate AQAM's threat worldwide.⁵² However, he contends, the US is not achieving strategic results:

To the extent that drone attacks perpetuate the political environment that sustains the will of the adversary to continue to plan attacks or, still worse, recruits new attackers to the cause, drone attacks at some point are strategically unwise, regardless of the more short-term tactical and operational effectiveness. To the extent that the adversary perceives drone warfare as dishonorable or cowardly, it may indeed

perpetuate negative images of the US and its allies that prolong the conflict at the strategic level.⁵³

Cook's comments suggest airpower as the US is applying it against AQAM is ineffective and likely protracting the conflict at a strategic level. While struggling to meet theater strategic goals by killing insurgents, the US is no closer to the desired end state. Moreover the "whack a mole" RPA attacks against insurgents, arguably, forces insurgents to adopt asymmetrical tactics as well.⁵⁴ Conversino supports this idea in "Asymmetric Air War." Here, a source for adversary protraction emerges. He states, the US's massive airpower capability "encourages adversaries to adopt tactics that themselves undermine the laws of war- precisely because they stand no chance against US airpower if they 'fight fair.'"⁵⁵

The above considerations get to the heart of the *focused* principal of joint targeting. JP 3-60, *Joint Targeting* defines the function of focused targeting as one meant, "to efficiently achieve the JFC's objectives through target engagement within the parameters set by (among other things) the ROEs and the law of war."⁵⁶ While the laws of war are codified, their interpretation and their ethical gray areas are not. Therefore, the JFC must capture ethical concerns as they pertain to military advantage and strategic goals, in the ROEs at the outset of hybrid war.

CONCLUSIONS

Applying airpower to hybrid war creates definite ethical challenges for the JFC. In the prosecution of these conflicts, he will need to balance the hierarchical responsibilities to his commanders and subordinates, as well as make a positive commitment to preserve innocent lives. This obligation requires the JFC to analyze alternative targeting means after comparing

risks to both civilians and combatants and assessing the likelihood each will achieve the tactical objective. This course of action must also tie into strategic objectives. The better alternative will not always be the most sterile as it relates to US forces. Some instances may require risking friendly combatant lives to limit risk to noncombatants. Likewise, using airpower as the sole target method adds another ethical factor to the moral equation. Few potential adversaries will match the technological advancements and capabilities of the US in the aerial domain. JFCs must also consider the ethical implications of using targeting methods that place very low risk to friendly combatants in proportion to the risk to civilians on the ground. All things considered, when targeting with airpower, he must holistically understand the military advantage of tactical effects as they relate to hybrid war's objectives.

Current doctrine and the LOAC do not adequately guide the JFC's way through the above considerations. The US maintains sound doctrine for fighting conventional war and the lessons of recent wars led to solid counterinsurgency doctrine.⁵⁷ However, the two fall on opposite ends of the war spectrum. Future US conflicts will not fall decisively into either category.⁵⁸ For hybrid war, the JFC's operational design must account for tenets of both doctrines. Protraction and potential failure await the commander who does not recognize the nature of the adversary and develops a counter strategy that follows a strict conventional or insurgency approach. What is more, the LOAC does not adequately address the ethical challenges involved with hybrid war nor does joint targeting doctrine adequately address the moral lessons learned from recent US counterinsurgency campaigns.

Lacking doctrine and definitive law on these matters, the JFC must provide planning and operational guidance at the outset of hybrid conflict. The ROEs are his principal means to focus the target planning process.⁵⁹ Most importantly, when charged with commanding a

hybrid war, and with hi-tech and highly capable airpower at his disposal, the JFC should tailor ROEs by drawing upon the considerations presented in this essay. Ultimately, doing so will ethically bridge airpower's tactical effects with US national objectives in these "likely" future conflicts.

RECOMMENDATIONS

To advance preparation for hybrid war, the Joint Chiefs of Staff (JCS) should initiate the hybrid war doctrine development. The scope and purpose of this doctrine should provide JFCs and joint planners with an insight on the character of hybrid war and the fusion of conventional and unconventional adversarial weapons, tactics, techniques and procedures. This doctrine should also include legal guidelines and ethical considerations. Specifically, the doctrine should outline JFCs' moral responsibility to noncombatants highlighting the notion that "least risk" does not necessarily mean least risk to friendly combatants. The doctrine should also charge commanders to make a positive commitment to preserve non-combatant lives because not doing so impedes strategic objectives.

The JCS should also drive change to JP 3-60, *Joint Targeting* doctrine. The focus of the change should center on the asymmetric use of airpower. Particularly, the change should forewarn JFCs of a narrow tactical perspective and the strategic risks of allowing airpower's technological and tactical prowess to drive strategy. While such application likely earns short-term tactical and operational successes, the tradeoff risks implicate a protracted campaign, greater loss of combatant and noncombatant lives, and failure to secure theater and national strategic aims.

In the absence of evolved doctrine, the JFC should adapt current doctrine. In the spirit of ethically bridging tactical effects to strategic objectives, JP 3-24, *Counterinsurgency*

offers valuable insight. Specifically outlining strategy and operational art, the doctrine advises:

During the planning process, JFCs should carefully assess the Operational Environment (OE), the nature of the challenge, and the strategic context for US involvement. This will typically involve a more detailed analysis of the situation at the operational and tactical levels than those undertaken at the strategic and policy levels. In considering how ends, ways, and means can be aligned to attain US strategic goals, JFCs should assess whether US strategic assumptions accurately reflect the situation at the operational and tactical level. Where a disconnect is evident, JFCs should engage with strategic and policy leaders to share their assessment of the challenge and request clarification or reconsideration of strategic guidance.⁶⁰

Lastly, JFCs should stay engaged in the targeting process even after ROEs are tailored to meet his intent. This obligation requires dedicated involvement in oversight and targeting assessment. Assessments for the JFC assuredly occur at all levels of war. But, he cannot solely focus on the strategic level at the expense of the operational and tactical levels. Particularly when using airpower to conduct “signature strikes” in a hybrid war, JFCs must drive consistent measurements of effectiveness and performance to assess how well tactics are advancing strategic aims.⁶¹ For similar reasons, he must stay involved in the targeting oversight process, to include his joint targeting coordination boards (JTCBs) and air apportionment effectiveness.⁶² Specific to JTCBs, the researcher advises the JFC heed the risks of delegating oversight tasks to staff or subordinate commanders in a hybrid conflict, especially when airpower is the primary targeting means. Likewise, the JFC must succinctly communicate his intent and objectives to the joint forces air component commander (JFACC) when apportioning air assets.⁶³ In sum, engagement in the JTCBs and clear and consistent JFACC guidance ensures the right targets are being acted upon with the appropriate assets in the context of a proper outward risk assessment.

NOTES

¹ Frank Hoffman, "Hybrid Warfare Challenges." *Joint Force Quarterly*, no. 52 (1st Quarter 2009), 35-36.

² Martin L. Cook, "Ethical Dimensions of 'Drone' Warfare" (paper presented as Stockdale Professor of Professional Military Ethics, U.S. Naval War College, Newport, RI, 2013), 1.

³ *Google Dictionary Online*, s.v. "Law" def. 1, accessed 15 May 2014.

⁴ Kevin M. Brew, "Legal Basis for use of Force and Law of Armed Conflict," *U.S. Naval War College, Joint Maritime Operations Syllabus* (February-June 2014).

⁵ *Google Dictionary Online*, s.v. "Ethics" def. 1, accessed 15 May 2014.

⁶ David Sadowski and Jeff Becker, "Beyond the Hybrid Threat: Asserting the Essential Unity of Warfare," *Small Wars Journal* (7 January 2010), 2-3.

⁷ Frank Hoffman, "Hybrid vs. Compound War, The Janus Choice: Defining today's multifaceted conflict." *Armed Forces Journal* (October 2009), <http://www.armedforcesjournal.com/hybrid-vs-compound-war/>, accessed 15 May 2014.

⁸ Multiple sources classify these conflicts as insurgencies, irregular wars, civil wars, and political uprisings. However, all used conventional and unconventional forces, tactics and weapons.

⁹ The Judge Advocate General's Legal Center & School, *Operational Law Handbook*, International and Operational Law Department (Charlottesville, VA, 2008), 49-67, accessed 15 May 2014, <http://www.loc.gov/mwg-internal/de5fs23hu73ds/progress?id=J2OPKn3VH4>.

¹⁰ Air University, "USAF Doctrine Update on Joint Publication 3-24, Counterinsurgency" (21 January 2014), accessed 15 May 2014, http://www.au.af.mil/afri/aspj/digital/du_jp_3-24.pdf.

¹¹ Mark Conversino, "Asymmetric Air War, Ethical Implications," in *Issues in Military Ethics, To Support and Defend the Constitution*, ed. Martin L. Cook (Albany, NY: SUNY Press, 2013) 207.

¹² *Ibid.*, 210.

¹³ *Ibid.* *Jus in bello* is a Latin term which means "the law in waging war." It is an aspect of the international law of war which addresses the practices forbidden to belligerents during a war. *Jus in bello* defines standards by which a country can conduct war and the actions during the war should be just and fair. It is a group of principles intended as guidelines for the just prosecution of war. *Jus in bello* includes two principles of discrimination and proportionality. Discrimination defines legitimate targets and proportionality defines how much force could be used. See <http://definitions.uslegal.com/j/jus-in-bello/>.

¹⁴ *Jus ad bellum* is a Latin phrase that means right to wage war. This indicates a criterion that is consulted before engaging in war. This phrase concerns whether a war is conducted justly or if whether the entering into war is justifiable. An international agreement limiting the justifiable reasons for a country to declare war against another is concerned with *jus ad bellum*. The principles central to *jus ad bellum* are right authority, right intention, reasonable hope, proportionality, and last resort. See <http://definitions.uslegal.com/j/jus-ad-bellum/>

¹⁵ M. Shane Riza, *Killing without heart: Limits on Robotic Warfare in an Age of Persistent Conflict* (Dulles, VA: Potomac Books, 2013), 77.

¹⁶ Eliot Cohen, "The Mystique of U.S. Air Power," *Foreign Affairs* (January/February 1994), quoted in Mark Conversino, "Asymmetric Air War, Ethical Implications," in *Issues in*

Military Ethics, To Support and Defend the Constitution, ed. Martin L. Cook (Albany, NY: State University of New York Press, 2013), 211.

¹⁷ The author uses the term “his” throughout. This is not meant to be gender exclusive; the use merely falls in line with the historical gender of JFCs.

¹⁸ Michael Walzer, *Arguing About War* (New Haven, CT and London: Yale University Press 2004) 23. Walzer’s analysis refers mostly to the issue of accountability for officers’ wrongdoing. His thesis purports that the military does a good job of policing ethical issues up and down the chain but are not as sensitive to their responsibility for limiting civilian casualties on the other side. Put simply, historically there is a culture that values the lives of friendly troops over those of the other sides’ civilians. The most notable example presented is President Truman’s approval of dropping the atomic bomb on Hiroshima as justification for saving hundreds of thousands of lives (though the majority of foreseeable casualties would have been combatants).

¹⁹ Ibid.

²⁰ Ibid., 24.

²¹ Ibid., 25.

²² U.S. Office of the Chairman of the Joint Chiefs of Staff, *Doctrine for Joint Targeting*, Joint Publication 3-60 (Washington DC: CJCS, 31 January 2013), A-5.

²³ Boeing Website, “Defense, Space and Security: Small Diameter Bombs,” accessed 15 May 2014, <http://www.boeing.com/boeing/defense-space/missiles/sdb/index.page>.

²⁴ Walzer, *Arguing about War*, 17.

²⁵ Riza, *Killing Without Heart*, 57.

²⁶ Ibid., 57.

²⁷ U.S. Office of the Chairman of the Joint Chiefs of Staff, *Doctrine for Joint Targeting*, viii.

²⁸ John C. Ford S.J. “The Morality of Obliteration Bombing” in *War and Morality*, ed. Richard Wasserstrom (Belmont: Wadsworth Publishing, 1970), also accessed 15 May 2014, <http://www.ts.mu.edu/readers/content/pdf/5/5.3/5.3.1.pdf>.

²⁹ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977), 153.

³⁰ Ibid., 155.

³¹ Ibid., 155-56.

³² Steven Lee, “Double Effect, Double Intention and Asymmetric Warfare,” *Journal of Military Ethics*, no. 3, issue 3 (2004): 239.

³³ Ibid., 239.

³⁴ Ibid., 242-43.

³⁵ Ibid., 249.

³⁶ Mark Clodfelter, *The Limits of Air Power: The American Bombing of North Vietnam* (Lincoln: University of Nebraska Press, 2006), 216. Clodfelter defines *negative objectives* or *negative goals* as those “only achievable by limiting military force.”

³⁷ Thucydides, *The Landmark Thucydides: a Comprehensive Guide to the Peloponnesian War*, ed. Robert B. Strassler (New York: Free Press, 1996), Chapter 17.

³⁸ Niccolo Machiavelli, *The Prince*, 2nd ed., ed. and trans. Harvey Mansfield (Chicago: The University of Chicago Press, 1998), 103.

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- ³⁹ Maj Gen William T. Sherman (letter to the Mayor of Atlanta, 12 September 1864). Internet Archive of the Library of Congress, accessed on 15 May 2014, <https://archive.org/stream/replyofmajgenshe00sher#page/n1/mode/2up>.
- ⁴⁰ P.W. Singer, “The Ethics of Killer Applications: Why is it so Hard to Talk about Morality when it comes to New Military Technology?” *Journal of Military Ethics* 9, no.4 (2010), 309, accessed 15 May 2014, LexisNexis. The author adapts this scenario from one presented by Singer.
- ⁴¹ Ibid.
- ⁴² Koh, Harold Hongju, State Department Legal Adviser, “The Obama Administration and International Law,” Annual Meeting of American Society of International Law (March 25, 2010), accessed 15 May 2014, <http://www.state.gov/s/l/releases/remarks/139119.htm>.
- ⁴³ Clodfelter, *The Limits of Air Power*, 216.
- ⁴⁴ Ibid.
- ⁴⁵ Milan Vego, *Joint Operational Warfare: Theory and Practice* (Newport: Naval War College, reprint 2009), I-3. Vego defines operational art as “an intermediate position between the realm of policy and strategy and that of tactics.”
- ⁴⁶ U.S. Office of the Chairman of the Joint Chiefs of Staff, *Doctrine for Joint Targeting*, A-4.
- ⁴⁷ Ibid.
- ⁴⁸ Cook, “Ethical Dimensions of ‘Drone’ Warfare.”
- ⁴⁹ Ibid., 8.
- ⁵⁰ Ibid.
- ⁵¹ Ibid., 12.
- ⁵² Ibid.
- ⁵³ Ibid., 13.
- ⁵⁴ Ibid., 10. Cook uses the term “whack a mole” to refer to US strategy of killing emerging al Qaeda leaders.
- ⁵⁵ Conversino, “Asymmetric Air War,” 208.
- ⁵⁶ U.S. Office of the Chairman of the Joint Chiefs of Staff, *Doctrine for Joint Targeting*, viii.
- ⁵⁷ Hoffman, “Hybrid War and Challenges,” 38.
- ⁵⁸ Ibid., 39.
- ⁵⁹ The Judge Advocate General’s Legal Center & School, *Operational Law Handbook*, 73.
- ⁶⁰ U.S. Office of the Chairman of the Joint Chiefs of Staff, *Doctrine for Counterinsurgency*, Joint Publication 3-24 (Washington D.C.: CJCS 22 November 2013), III-22.
- ⁶¹ U.S. Office of the Chairman of the Joint Chiefs of Staff, *Doctrine for Joint Operations*, Joint Publication 3-0 (Washington D.C.: CJCS, 11 August 2011), II-9 – II-11.
- ⁶² Ibid., III-23.
- ⁶³ Ibid.

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